DSSTM (Digital Satellite System)

USSB Programming

Basic Channels (6)

Lifetime
Nickelodeon/Nick at Nite
MTV
VH-1
Comedy Central
All News Channel

Premium Channels (14)

HBO East/West
HBO 2 East/West
HBO 3
Showtime East/West
Showtime 2
The Movie Channel East/West
Cinemax East/West
Cinemax 2
FLIX

^{*}Includes all channels with which USSB will start. Expected future compression improvements should allow for additional channels/services. Current plans include public service, free advertiser supported services and special interest programming

United States Senate

WASHINGTON, DC 20510

August 24, 1994

The Honorable Reed E. Hundt Chairman Federal Communications Commission 1919 M Street, NW Washington, DC 20554

Dear Chairman Hundt:

We are aware of the letter sent to you on June 15, 1994 by several Members of Congress, addressing Section 19, the program access provision, of the Cable Act of 1992. We believe that letter fundamentally misstates the goal of Section 19, which was intended only to address exclusive practices by cable operators. Non-cable operations, such as direct broadcast satellite (DBS) are not covered by Section 19.

As the title of the Cable Act clearly indicates, the legislation specifically was designed to address the problems suffered by the public as a result of cable's monopolistic practices. Many of our constituents complained about cable operator's abuses of their power.

A key provision of the Act is Section 19, which addresses cable programming practices. It precludes cable operators from entering into exclusive contracts with vertically integrated cable programmers in areas not served by cable. It permits exclusive contracts in areas served by cable, if the FCC determines that such contracts are in the public interest. We submit, however, that a search of the entire Cable Act and its legislative history will confirm that only program contracts involving cable operators were intended to fall within the province of Section 19 and the Act as a whole.

Moreover, a fundamental purpose intended to be served by Section 19 is the promotion of technologies that can compete with cable operations. In this regard, competitive exclusivity in DBS operations is essential if a non-cable operator with a small number of channels is to be able to compete with another operator offering more, but different channels. Denying competitive exclusivity could have the perverse effect of creating a monopoly within DBS by limiting an operator's ability to grow, compete with cable, and offer unique services to the customer.

We believe the Commission's initial conclusions on programming exclusivity -- that Section 19 applies only to cable operators -- were correct, and the rules adopted by the FCC thus properly implement Section 19. We understand the Attorneys General of 45 states and the District of Columbia, the U.S. Department of Justice, and Judge John Sprizzo, U.S. District Court, Southern District of New York, all agree that the Cable Act of 1992 does not prohibit exclusive contracts by DBS providers and programmers.

We have attached material which provides graphic illustration of the fact that the FCC's present rules will make extensive programming available to DBS customers.

We appreciate your consideration of our views.

Sincerely,

Bob Packwood

U.S. Senate

an Coats

U.S. Senate

DSSTM

(Digital Satellite System)

DirecTv Programming

Basic Channels

A&E

Black Entertainment

Television

Cartoon Network

Country Music Television Encore 4/Tweens

CNN

CNN International

CNBC

Court TV C-Span

C-Span 2

Discovery

E!

ESPN

Family Channel

Headline News

The Learning Channel

Much Music

SCI-FI Channel

Shopping

Travel Channel

The Weather Channel

TBS-Superstation

The Nashville Network

Turner Classic Movies

TNT

USA Network

Premium Channels

The Disney Channel East/West Approximately 40+ Channels

Encore

Encore 2/Love Stories

Encore 3/Western

Encore 4/Tweens
Encore 5/Mystery

Encore 6/Action

Encore 7/True Stories & Drama

Playboy Channel

Pay-Per-View Movies

Approximately 40+ Channel with current hit films from:

Paramount Pictures

Columbia Pictures
Sony Pictures Classics

TriStar Pictures

Turner MGM Film Library

Universal Pictures

Touchstone Pictures
Hollywood Pictures

Walt Disney Pictures

Warner Bros Miramax Films Pay-Per-View Sports

Up to 40 channels with events expected from all

major sports leagues

Special Interest

Golf Channel

CBC Newsworld International Physicians Television Network

Bloomberg Direct Financial

Music Choice (Digital Audio)

TRIO

Movie Preview Channel

Sports Preview Channel Consumer Information

^{*}List includes all DirecTv programming announced as of June 28, 1994

DSSTM (Digital Satellite System)

USSB Programming

Basic Channels (6)

Lifetime
Nickelodeon/Nick at Nite
MTV
VH-1
Comedy Central
All News Channel

Premium Channels (14)

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Showtime East/West

Showtime 2

The Movie Channel East/West

Cinemax East/West

Cinemax 2

FLIX

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United States Senate

July 6, 1994

The Honorable Reed Hundt Chairman Federal Communications Commission 1919 M Street, NW Washington, DC 20554

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Page 2

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I appreciate your consideration of these views.

Sincerely,

Jeff Bingaman United States

Senator

JB/mss



Congress of the United States House of Representatives Washington, D.C. 20515

July 6, 1994

The Honorable Reed Hundt Chairman Federal Communications Commission 1919 M Street, NW Washington, DC 20554

Dear Commissioner Hundt:

We are aware of the letter sent to you on June 15, 1994 by several Members of Congress, addressing Section 19, the program access provision, of the Cable Act of 1992. We believe that letter fundamentally misstates the goal of Section 19, which was intended only to address exclusive practices by cable operators. Non-cable operations, such as direct broadcast satellite (DBS) are not covered by Section 19.

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We have attached material which provides graphic illustration of the fact that the FCC's present rules will make extensive programming available to DBS customers.

We appreciate your consideration of our views.

Pete V. Dominici

U.S. Senate

Sincerely,

Martin Olav Sabo

U.S. House of Representatives

Robert\H. Michel

U.S. House of

Representatives

ohn Edward Porter

S. House of

Representatives

ruce F. Vento

U.S. House of Representatives

U.S. House_of Representatives

Jim Ramstad

U.S. House of Representatives

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COMMITTEE ON ENERGY AND COMMENCE

CHAIRNAN,

SURFCHEMITTER OF TRANSPORTATION AND

SUBLEMMITTEE ON CHEREY AND POWER

COMMITTEE ON HOUSE ADMINISTRATION

CHAIRMAN, SUBCUMMITTLE ON ELECTIONS

SURCOMMITTEE ON ACCOUNTS

Congress of the United States Bouse of Representatives

Washington, DC 20515-4702

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EVERETT, WA 98201 (208) 282-3188

> 1502 LONGWORTH HOUSE OFFICE SHIGHING WASHINGTON, DC 20515-4702 (202) 225-2605

> > July 8, 1994

The Honorable Reed Hunt Chairman, Federal Communications Commission 1919 M Street NW Washington, D.C. 20554

Dear Chairman Hunt:

I am writing you concerning the issue of program exclusivity as it pertains to Direct Broadcast Satellite (DBS) services. I was an active proponent of the purposes of the 1992 Cable Act, and in particular, the goal of creating viable and robust DBS services to offer competition to existing cable monopolies.

As you know --and as the Act's title clearly indicates--the legislation was specifically designed to address the problems suffered by the public as a result of monopolistic practices by certain large cable companies. Competition by DBS was intended to be part of the public's solution, never part of the problem. Therefore it is my belief that a search of the Act and the legislative history will confirm that only program contracts involving cable operators are intended to fall within the province of the 1992 Cable Act.

In that regard, I want to state my support for the Commission's conclusion in its "First Report and Order" in MM Docket No. 92,265. I believe the Commission properly construed the exclusivity provisions of Section 19 as applicable to cable operators only. And it is my understanding that the Department of Justice, and the attorneys general of 45 states also agree that there is no bar in the Cable Act of 1992 to exclusive contracts by DBS providers and programmers.

Sincerely

Thank you for your consideration of my views on this matter.

Momber of Congress

AS/lbk

WASHINGTON, DC 20515-0529 (202) 225-3975

985781CT 0844CE 8436 West 3n \$TREET Suitt 600 Los Anceles, CA 80048-4183 (213) 851-1040

Congress of the United States House of Representatives

GOVERNMENT OPERATIONS

SHILLF M. SCHILLEG
ADMINISTRATIVE ASSISTANT

SMERGY AND COMMERCE

CHAMMAN, SUBCOMMITTLE ON MEALTH AND THE ENVIRONMENT

Washington, **DC** 20515-0529

HENRY A. WAXMAN 29th District, Caufornia August 16, 1994

The Honorable Reed Hundt Chairman Federal-Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

Dear Mr. Chairman:

I am writing in support of the Federal Communications Commission's conclusion in its "First Report and Order" in MM Docket No. 92.265 regarding exclusive program contracts with noncable distributors.

To foster healthy competition in program distribution services, Section 19 of the 1992 Cable Act forbids exclusive arrangements between cable operators and vertically integrated programmers in areas not served by cable. This section of the law was drafted to address the anticompetitive practices of cable companies, and not potential exclusive agreements by noncable distributors.

Although exclusive contracts can present dangers in the marketplace, they do not automatically pose an inherent danger to diversity and competition and, in certain circumstances, can be employed positively as a guard against monopolistic practices. Without the ability to distinguish their programming from larger competitors, small rivals would not survive and consumers would suffer the effects of the resulting lack of competition. Such an outcome would directly contradict the express purposes for which the 1992 Cable Act was passed. Selectively approved exclusive contracts could mitigate this impact. If these contracts are authorized, however, great care must be taken to ensure against long-term anti-competitive effects.

Thank you for your consideration of my views on this matter. With kind regards, I am

Sincerely,

HENRY A. WAXMAN Member of Congress

COMMITTEES:

LABOR AND HUMAN RESOURCES

JUDICIARY

FOREIGN RELATIONS

BUDGET

INDIAN AFFAIRS

United States Senate

WASHINGTON, DC 20510-1302

August 19, 1994

The Honorable Reed Hundt Chairman Federal Communications Commission 1919 M Street, N.W. Washington, DC 20554

Dear Reed:

I have been hearing from people on both sides of the controversy regarding Section 19 of the Cable Act.

I am probably the least informed person writing to you on this.

I have looked over the correspondence and discussed this twice with my staff. It seems to me the enclosed letter from Jeff Bingaman to you merits serious consideration.

I have worked with Jeff on a great many things, and I know he does not enter these things lightly.

I wish you the best.

(1)...)

ially,

Taxil Simon U. S. Senator

Ξ,

P\$/jw

Enc.

COPY

United States Senate

July 6, 1994

The Honorable Reed Hundt Chairman Federal Communications Commission 1919 M Street, NW Washington, DC 20554

Dear Chairman Hundt:

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I appreciate your consideration of these views.

Sincerely,

Jeff Bingaman

United States Senator

JB/mss

| | PROGRAMMERS | DIRECTV | USSB | PRIMESTA |
|------------------|--|--|--|--|
| | PRIMETIME 24 (ABC, CBS, NBC) | | | |
| NETWORKS* | FOX & PBS | <u> </u> | · | |
| | THE WORKS (ABC, CBS, NBC, FOX, PBS) | | | • |
| | A&E | | | |
| | ALL NEWS CHANNEL | | | |
| | CARTOON | | | • |
| | CMTV | | | • |
| | CNBC | | | |
| | CNN | | | • |
| | CNN INTERNATIONAL | <u> </u> | | |
| | COMEDY CENTRAL | | | |
| | DISCOVERY | | | • |
| | DISNEY | | | |
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| PREMIUM | ENCORE MULTIPLEX | | | <u> </u> |
| | FAMILY CHANNEL | | | • |
| | FLIX | | | |
| | HBO/CINEMAX MULTIPLEX | | | • |
| | HEADLINE NEWS | | | • |
| | LIFETIME | | | 1 |
| | MTV/VH-1 | | • | 1 |
| | MUCHMUSIC | | | 1 |
| | NASHVILLE | | | — |
| | NICKELODEON | | | |
| | PLAYBOY | | = | |
| | | | | |
| | SHOWTIME/TMC MULTIPLEX | | | |
| | TURNER CLASSIC MOVIES | | | |
| | USA | | | |
| | COLUMBIA PICTURES | | | |
| | HOLLYWOOD PICTURES | | | |
| | MIRAMAX FILMS | | | |
| | PARAMOUNT PICTURES | | | |
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| | UNIVERSAL PICTURES | | | |
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| | WALT DISNEY PICTURES | <u> </u> | | |
| | WARNER BROS. | | | |
| | COURT TV | | | |
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| | E! ENTERTAINMENT | |] | |
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| SPECIAL INTEREST | PHYSICIAN'S TV NETWORK | A | | |
| | SCI-FI | | | |
| | TRAVEL | <u> </u> | | |
| | TRIO | <u>X</u> | | |
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| ·- | ESPN/ESPN ALTERNATE | | | |
| SPORTS | GOLF | <u> </u> | | |
| SPORIS | PRIME NETWORKS | | | • |
| | SATELLITE SPORTS NETWORKS** | | | • |
| OTHER SERVICES | BLOOMBERG DIRECT BUSINESS NEWS | street eg | garanta galak kemban | the contract of the contract of |
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| | | 3 9 2 2 | | + |
| | TV JAPAN (Japanese and English) | The state of the s | | |

^{*} Available in "white" areas only.
** Includes 14 regional sports networks.

 ^{■ =} DirecTv/USSB Programming on DBS-1 (subject to change).
 ▲ = DirecTv Programming on DBS-2 (subject to change).
 ● = Primestar Programming on Satcom K-1.

PROVISIONS CONCERNING EXCLUSIVE CONTRACTS

IN THE CABLE ACT

Areas Unserved By Cable

"(C) prohibit practices, understandings, arrangements, and activities, including exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor or satellite broadcast programming vendor, that prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest or any satellite broadcast programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

Areas Served By Cable

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest or a satellite broadcast programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

IN THE CONFERENCE COMMITTEE REPORT

Areas Unserved By Cable

With regard to areas not passed by a cable system, the regulations required by the House amendment prohibit exclusive contracts and other arrangements between a cable operator and a vendor which prevent a multichannel video programming distributor from obtaining programming from a satellite cable programming vendor affiliated with a cable operator.

Areas Served By Cable

With regard to areas served by cable operators, the FCC's regulations must prohibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor affiliated with a cable interest, unless the FCC determines such a contract is in the public interest. In determining whether such an exclusive contract is in the public interest, the FCC shall consider the effect of the contract on competition in local and national multichannel video programming distribution markets, the effect on competition from multichannel video programming distribution technologies other than cable, the effect on the ability to attract capital investment in new satellite cable programming, the effect on the diversity of programming in the multichannel video programming distribution market, and the duration of the exclusive contract. The House amendment's provisions limiting exclusive contracts in areas served by cable operators expire in 10 years. Exclusive contracts for satellite cable programming that were entered into on or before June 1, 1990 for geographic areas not served by cable operators are grandfathered under the House amendment.

IN THE FCC REGULATIONS

Areas Unserved By Cable

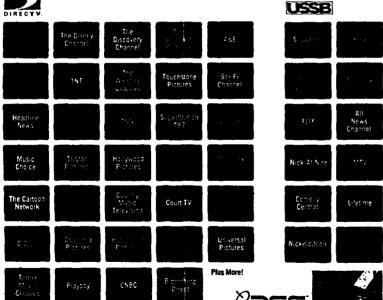
(c) Exclusive contracts and practices.— (1) Unserved areas. No cable operator shall engage in any practice or activity or enter into any understanding or arrangement, including exclusive contracts, with a satellite cable programming vendor or satellite broadcast programming vendor for satellite cable programming or satellite broadcast programming that prevents a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest, or any satellite broadcast programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of October 5, 1992.

Areas Served By Cable

(2) Served areas. No cable operator shall enter into any exclusive contracts, or engage in any practice, activity or arrangement tantamount to an exclusive contract, for satellite cable programming or satellite broadcast programming with a satellite cable programming vendor in which a cable operator has an attributable interest or a satellite broadcast programming vendor in which a cable operator has an attributable interest, with respect to areas served by a cable operator, unless the Commission determines in accordance with paragraph (c)(4) of this section that such contract, practice. activity or arrangement is in the public interest.

Today's Best. Tomorrow's Classics.

The RCA DSS System offers the widest range of program choices, including your favorites.



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PHOSTAL BATELISTE STOTES
The 18° dish unchrusively recents
a high-power 120-Wast digital KU
signal, and sends it to the receiver.

When Combined
With An RCA
Home Theatre™
Television,
The DSS System Raises
Home Entertainment
Excitement
To New Levels.

and the contract of the contract of



F35751MB (Bose Optional)

Changing Entertainment. Again™

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Form DS-5027 Trademark(s) ® Registered Marca(s) Registrada(s)

The DSS[™] Digital Satellite System Advantage

RСЛ



Discover The RCA DSS Value

The RCA brand DSS" Digital Satellite System provides great digital home entertainment value with DIRECTV and USSB programming.

The RCA DSS equipment receives everyone's basic cable favorites like ESPN and CNN, as well as premium channels like HDO,

Showtime, and The Disney Channel. But that's only the beginning. You'll get revolutionary choices from DIRECTV and USSB. This includes Direct Ticket* pay-per-view movies and planned college and professional sports packages, as well as concerts, and cultural programming. And the revolutionary RCA DSS receiver is compatible with your existing antenna and your local cable service to allow you to receive local programming.

dish, measuring only 18" in diameter!

with your cable programming But the DSS advantage doesn't stop

Use this handy

comparison

chart

to assist in a

line-by-line

comparison

and pricing.

with quality programming. Capable of digital-quality broadcast images and dramatic CD-quality' sound, the RCA DSS equipment provides unsurpassed sound and picture performance. And all this is made available through a small satellite

As You Compare, Be Sure To Consider These DSS System Advantages!

- Does your cable system offer 150+ channels?¹
- Are premium multiple channel services available?
- 5 HBO Channels 2 The Movie Channel Channels
- 3 Cinemax Channels 3 Showtime Channels + FLIX
- · Does your system offer up to 40 pay-per-view channels?
- · Is your cable system capable of digital quality video
- · Can your system deliver a 16 x 9 widescreen picture and HDTV?
- · Can you subscribe to FLIX or Encore?

 Quadre of presure and would are dependent upon the audio costem and/or a ference people consumer. Enforcem also over 5-Video sound as reading full capability of DSS security. 3 Additional capa-

| Your Present Cable S | ystem | | | |
|---|---|--|--|--|
| Basic Cable Service | \$ | | | |
| Cable Service | | | | |
| Premium Service HBO (5 services available?) Cinemax (3 services available?) Showtime (3 services available?) The Movie Channel (2 services available?) FLIX The Disney Channel Encore Playboy | | | | |
| Other Other Basic Services (limited availability) Court TV Bloomberg Direct Sci-Fi Channel Comedy Central Cartoon Network All News Channel Turner Classic Movies Pay-Per-View | (Included in Basic Cable Service fee) | | | |
| Equipment Charges | | | | |
| Franchise Fees | | | | |
| All other Fees | | | | |
| Total Cable Fees | \$ | | | |
| Your Monthly Video Rentals | \$ | | | |
| Total Combined Monthly Cost | \$ | | | |

| Your Programming Choices | | | | |
|--------------------------|---|--|--|--|
| \$ | Check your local cable system | Local Channels (From your antenna? From your local cable service?) | | |
| , | \$21.95 | "Personal Choice" ESPN, A&E, CNBC, CNM, C-SPAN, The Cartoon Network, The Discovery Channel, Country Music Television, Headline News, The Learning Channel, El Enertainment Television, Bloomberg Direct, The Nathwide Network, The Family Channel, Tumer Classic Moxies, TNT, SuperStation TBS, Sci-Fi Channel, Court TV, USA Network, The Weather Channel | | |
| | Included (up to \$119/yr value!) | The Disney Channel | | |
| | Included (\$30/yr value!) Over 30 channels offered | \$2.50/month Coupon for Direct Ticket "Pay-Per-View (Paramount Pictures, Universal Pictures, Tristar Pictures, Columbia Pictures, Touchstone Pictures, Hollywood Pictures, Miraman Films and Warner Bros.) | | |
| | Included (Premium movie service) | Encore (up to 7 theme channels) | | |
| | \$3.95 | Prime Time 24 (ABC, CBS, NBCrestrictions may apply) | | |
| | \$4.99/night \$9.95/month | Playboy | | |
| | \$34.95 (1st month FREE!) | LUSSIB. "Entertainment Plus" HBO (HBO, HBO West, HBO 2, HBO 2 West, HBO 3), Cinemax (Cinemax, Cinemax West, Cinemax 2), Showtime (Showtime, Showtime West, Showtime 2), TMC (The Move Channet, The Move Channet West), FLIX and "The Essentials" | | |
| | \$24.95 | USSIB. "Showtime Plus" and "The Essentials" (Showtime, Showtime West, Showtime 2, The Movie Channel, The Movie Channel, The Movie Channel, The Movie Channel West, FLIX) | | |
| | \$24.95 | USSB. "HBO Plus" and "The Essentials" (HBO, HBO West, HBO 2, HBO 2 West, HBO 3, Chemax West, Chemax 2) | | |
| | \$10.95 No Basic Cable Buy Thru! | .USSB Showtime (Showtime, Showtime West, Showtime 2) | | |
| | \$10.95 Buy Thru! | USSB. HBO (HBO, HBO West, HBO 2, HBO 2 West, HBO 3) | | |
| | \$7.95 | USSE: "The Essentials" Lifetime, Nickelodeon, Nick-at-Nite, MTV, VH-1, Comedy Central, All News Channel | | |
| \$ | Total Monthly Cost | No. 10 March 1997 Control of the Con | | |

DirecTv and the NRTC: Partners in Rural America

t the same time DirecTv rolls out its service in its first five markets, some 300 members of the National Rural Telecommunications Cooperative (NRTC) will roll out DSS nationally in the rural areas.

With the national rollout, initially there may be only enough equipment for showroom displays. Some local co-ops already have waiting lists, in some cases as many as 600 names, for DSS equipment.

"I think [the national rollout] is important for the NRTC and the member coops and indeed the customers in those areas, who've been hearing about this for a long time," said DirecTv president Eddy Hartenstein. "I think there's an interesting statistic among NRTC customers. Close to 60 percent of them come into the office once a month to pay their bill. It's an interesting phenomenon. I think to have one setup in the office is a good thing, even if you have to tell them, 'Here it is, we'll take your order and get it for you next month.' I don't think it's a very long period of time until they get up to the volumes [of product availability) they're looking for."

"We will ramp up a little more slowly in our territories," said Bob Phillips, CEO of the NRTC. "We hope to build very fast as we move into the summer and fall. We will begin to get caught up on demand; but, I'm not sure we will be able to catch up completely by year's end."

This marketing setup is the result of an agreement the NRTC made with DirecTv to market DSS in rural areas. Under this agreement, the NRTC paid DirecTv in excess of \$100 million (neither Phillips nor Hartenstein would reveal exact figures), which gives the NRTC exclusive marketing rights to represent some seven million homes.

"The NRTC represented potential to bring a huge amount of capital to the table up front," said Hartenstein. "The number of entities that can come up with \$100 million for anything are somewhat few and far between. In addition, we felt they represented a great potential asset in getting to the very rural customers. They have an infrastructure to get to that consumer."

The NRTC, however, didn't get as much territory as it wanted. Originally, the agreement called for the national coop to pay \$250 million. However, not enough co-ops chipped in, so not all the territory available was purchased.

In the territories controlled by NRTC member co-ops, they will have access to all the customers in that area, regardless of what outlet sells the equipment or programming. "Customers can go to the lo-

cal member's location and arrange for equipment and programming there," Phillips said. "We're also working with the satellite dealers through the SMAs [sales management agents] and working through the same channels on the national [consumer electronics] dealers so they can also sell programming and equipment on behalf of the local member affiliate directly.

The affiliate will establish customer contact immediately after the sale and begin to build the relationship with the customer."

TVRO and consumer electronics dealers will still receive commissions and support for their sales, even though they are on behalf of the NRTC. "We're counting on the CE [consumer electronics] and TVRO dealers to do a good job and be out there aggressively selling and promoting the product. As they do, they can expect the [NRTC] members and affiliates will provide the commissions and support being offered nationally," said Phillips.

In addition to the two DSS models available to TVRO and consumer electronics dealers, the NRTC will have an inbetween model available for its consumers. The mid-level model will feature the 18-inch DSS dish with the dual output LNB, which allows viewing on two different TV sets, and the receiver will have a data port. "We think there are some uses we have in our markets, particularly focused on data applications (such as agricultural information], where we'd like to have the availability of the data port," Phillips said. "We also believe there'll be a lot of applications for multi-unit televisions sets in the home."

In terms of programming offered, Phillips said, "We will be offering the Personal Choice I and II packages, and the a la carte and pay-per-view offerings DirecTv has because we are DirecTv in our areas. We'll also have some special packages like 'Best of Cable' that we'll offer in our territories.

"We're operating in this market just like in the C-band market [with Rural TV], with the members free to price however they wish in their territory," he continued. "Based on what the members and affiliates have told me, because they're out there talking to the customers every day, they're really thrilled with the lineup we have."

The Premium Channel Question

As reported in May's TVRO Dealer, the NRTC has filed a complaint with the Fed-

eral Communications Commission (FCC) relating to the exclusive carriage of HBO/Cinemax and Viacom feeds by United States Satellite Broadcasting (USSB). This was done even though USSB is willing to work with NRTC affiliates, including offering marketing support and commissions.

"The issue is not one of Hubbard willing to work with the cooperatives," said Phillips. "The issue is that DirecTv and NRTC have capacity on a DBS satellite and as distributors using our own system, Hubbard has done a deal with HBO and Viacom where they say Hubbard is the only source of capacity at 101 to provide HBO or Showtime. [The Cable Act says] vertically integrated programmers cannot refuse to deal and do exclusive contracts to prohibit any distributor from having access to their product on fair and equal terms.

"We'd like to have HBO and Viacom channels to position and package the way we want," he continued. "It's our right, it seems to us, under the law to be a competitor and take whatever competitive posture we wish. For Mr. Hubbard to presume he's the messiah here and can offer the only competition that's necessary is quite presumptive on his part."

As for DirecTv's position on the issue, Hartenstein said, "We're happy with the programming lineup we have. We think there will be a rulemaking by the FCC ultimately that will reflect what the true intention of the Congress is [with the Cable Act], which is to require vertically integrated cable companies to make available, at competitive prices, their programming to all program providers. That said, I'm not sure it makes a whole lot of sense for us to carry HBO at the same time USSB is carrying HBO. We kind of like our programming lineup right now.

"We're all on the same side here," con-

"We're all on the same side here," continued Hartenstein. "DirecTv and USSB are trying to create an industry. To create an industry, it not only has to be priced and presented in a way that creates value, it needs to be presented to consumers in a very seamless way.

"We fully plan to, when a consumer calls in to 1-800-DIRECTV and asks for HBO, tell him about all of our programming services and packages and do our best to convince him it creates value. But, at the end of the day, if he wants ours and still wants HBO, we'll push a button and transfer him over to USSB to sign him up for HBO. USSB has indicated they will do the same thing. I can live with that, provided we make it easy for the consumer."

Jeff Adams



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NRTC MEMORANDUM

TO:

NRTC DBS Participant General Managers

FROM:

Bob Phillips, Chief Executive Officer

DATE:

July 13, 1994

RE:

Urgent Need for Letters to the FCC and Capitol Hill re: Program Access

Deadline for Action: July 29

Last week, you received a Regulatory Alert from NRTC concerning immediate and critical need to make a strong impression at the FCC and on Capitol Hill in support of the Programming Access provisions of the 1992 Cable Act. NRTC has filed its comments (see attached) at the FCC. Now it's your turn to speak out on the "real life" consequences of exclusive programming agreements such as the ones signed between USSB, Time Warner and Viacom. To do so effectively, we need you to send letters to the FCC, your Senators and Members of Congress on this topic by July 29,

There is a great deal at stake here. The USSB agreement represents a flagrant manipulation of the intent of the 1992 cable law. It is important that we stand in unified opposition to it.

There is no doubt the USSB deal specifically affects your ability to provide your DIRECTVTM customers with the programming they want in a convenient and affordable fashion. Let the FCC and your congressional representatives know how this issue affects you in a real and tangible way.

We all have a stake in making sure the lobbylsts from HBO, USSB, and other cable programmers do not convince the FCC and our friends on Capitol Hill that things are OK. Your actions are critical in bringing a grassroots reality to the legislative and regulatory process.

Your letters are also important because the FCC has changed since we initially worked on the bill. New FCC Chairman Reed Hundt, and new Commissioners Rachelle B. Chong and Susan Ness may not understand the important role you play with NRTC in rural video distribution. Your letter to Chairman Hundt, copied to Commissioners Chong and Ness, will help drive home the point.

Finally, your action will reinforce our filing at the FCC. Do not delage To make this task easier for you, we have attached a summary of our filing, sample letters, and instructions for your letter-writing campaign. Thank you for your immediate attention.